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IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

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CRM-M-16452-2026

Date of decision: 2nd April, 2026

Gurpreet Singh @ Gopi

...Petitioner

Versus

State of Punjab

...Respondent

CORAM: HON'BLE MRS. JUSTICE MANISHA BATRA

Present: Mr. Rishu Mahajan, Advocate for the petitioner.

Ms. Sakshi Bakshi, Assistant Advocate General, Punjab.

MANISHA BATRA, J (ORAL):-

The present petition has been filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') by the petitioner seeking grant of regular bail in case bearing FIR No. 04 dated 06.01.2024 registered under Sections 21(c), 27-A, 25 and 29 of Narcotic Drugs and Psychotropic Substances Act, 1985 (for short, '*NDPS Act*') at Police Station Jandiala, District Amritsar.

2. The aforementioned FIR was registered on the allegations that the present petitioner had been declared a proclaimed offender in a case bearing FIR No. 37 dated 18.02.2019 registered under Section 22 of NDPS Act at Police Station Tarsika. On 06.01.2024, a police party conducted raid at his house for the purpose of apprehending him. Navdeep Singh, brother-in-

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law of the petitioner, had met there and disclosed that the petitioner mostly used to live in the house of his friend Gurpreet Singh @ Gopi, son of Kuldeep Singh. On receipt of this information, the police party had reached that the house of the above-named friend of the petitioner. On reaching there, the petitioner was found going from there on a motor bike. On noticing the police officials, he threw his bike and fled inside the house of his friend. He was apprehended. On conducting search, 2 kgs of *heroin* and currency notes of Rs. 1,75,000/- were recovered from the bag which was in possession of the petitioner. Investigation now stands concluded.

3. It is argued by learned counsel for the petitioner that he has been falsely implicated in this case. A false recovery has been planted upon him. He is in custody for a period of over two years. There are no chances of conclusion of trial in near future as none out of 16 prosecution witnesses has been examined so far. His continued detention would not serve any useful purpose. He is on bail in another case as registered against him. With these broad submissions, it is urged that the petition deserves to be allowed.

4. Notice of motion.

5. Learned State counsel has advance notice of the petition. While placing on record custody certificate of the petitioner, it is argued by him that allegations against the petitioner are serious in nature. He is involved in one more case and has been declared proclaimed offender in that case. There are chances of his absconding or committing similar offences, if extended benefit of bail. The rigors of Section 37 of NDPS Act are attracted in this case.

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Therefore, it is stressed that the petition does not deserve to be allowed.

6. This Court has heard the rival submissions made by learned counsel for the parties at considerable length.

7. The well settled proposition of law is that the Court while considering an application for grant of bail has to keep certain factors in mind, such as, whether there is a prima facie case or reasonable ground to believe that the accused has committed the offence; circumstances which are peculiar to the accused; likelihood of the offence being repeated; the nature and gravity of the accusation; severity of the punishment in the event of conviction; the danger of accused absconding or fleeing, if released on bail and reasonable apprehension of the witnesses being threatened. The period of incarceration is also relevant fact that is to be considered. It is also unequivocally established that, to be granted bail, the accused charged with offence under the provisions of NDPS Act must fulfill the conditions stipulated in Section 37 of the Act. A contention has been raised that the rigors of Section 37 of the NDPS Act are attracted in the present case as there is recovery of commercial quantity of contraband.

8. In the instant case, contraband of commercial quantity was recovered from the petitioner. He is in custody for a period of 02 years and 02 months. Trial will obviously take time to conclude since no prosecution witness has been examined so far. The Hon'ble Apex Court has observed in a catena of cases that an accused cannot be kept in custody for an indefinite period of time. This principle is a part of the broader approach emphasizing

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that law prefers bail over jail, aiming to balance the rights of the accused with the requirements of the criminal justice system. Prolonged detention itself is a ground for reconsideration of bail since the settled principle of law is that detention prior to trial should not become punitive. It is true that grant of bail on account of delay in trial and long period of incarceration is to be considered in light of Section 37 of the NDPS Act. Reliance in this regard can be placed on the observations made by the Hon'ble Apex Court in *Mohd. Muslim @ Hussain v. State (NCT of Delhi)*, 2023 SCC OnLine SC 352, wherein it was held that grant of bail on account of undue delay in trial cannot be said to be fettered under Section 37 of the NDPS Act, given the imperative of Section 436A which is applicable to offences under the Act. It was also observed that the jails are overcrowded and their living conditions are, more often than not, appalling. The danger of unjustified imprisonment is that inmates are more likely to be hardened rather than reformed. Reliance can also be placed upon *Manmandal and Another v. State of West Bengal, Special Leave Petition (Criminal) No. 8656 of 2023 decided on 14.09.2023* and *Rabdi Prakash v. State of Odisha*, 2023 SCC OnLine SC 110, wherein bail was granted to the accused, who had been incarcerated for a period of almost two to three years and the trial was likely to take considerable time. By observing that prolonged incarceration generally militates against the most precious fundamental right guaranteed under Article 21 of the Constitution, and in such a situation, the constitutional principle must override the statutory embargo contained under Section 37 of the NDPS Act.

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9. In view of the above discussion, this Court is of the opinion that a case is made out for grant of bail to the petitioner at this stage. Accordingly, the petition is allowed and the petitioner is ordered to be released on bail on his furnishing personal as well as surety bonds to the satisfaction of the learned trial Court, and subject to the condition that he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case. He shall appear before the learned trial Court on each and every date of hearing except when his presence has been exempted by the trial Court. He shall surrender his passport, if any, furnish details of his cell phone and Aadhaar card, and shall not change his mobile number(s) during the pendency of the trial.

10. It is clarified that the observations made above shall not be construed as an expression of opinion of this Court on the merits of the case and shall not influence the outcome of the trial in any manner.

11. Since the main petition has been allowed, pending application, if any, is rendered infructuous.

[MANISHA BATRA]
JUDGE

2nd April, 2026
Parveen Sharma

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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |